

ORIGINAL

RECEIVED

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

MAR - 4 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of:

Interconnection Between Local Exchange Carriers  
and Commercial Mobile Radio Service Providers

CC Docket No. 95-185

DOCKET FILE COPY ORIGINAL

COMMENTS OF 360° COMMUNICATIONS COMPANY

March 4, 1996

Kevin C. Gallagher  
Senior Vice President-General Counsel and Secretary  
360°Communications Company  
8725 Higgins Road  
Chicago, IL 60631  
(312) 399-2348

No. of Copies rec'd  
List ABCDE

14

360° Communications Company  
Initial Comments  
CC Docket No. 95-185  
March 4, 1996

RECEIVED  
MAR - 4 1996  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

## TABLE OF CONTENTS

	<u>PAGE</u>
I. GENERAL COMMENTS	2
II. COMPENSATION FOR INTERCONNETED TRAFFIC BETWEEN LECS AND CMRS PROVIDERS' NETWORKS	
A. COMPENSATION ARRANGEMENTS	
1. EXISTING COMPENSATION ARRANGEMENT	3
2. GENERAL PRICING PRINCIPLES	4
3. PRICING PROPOSALS (INTERIM, LONG TERM, SYMETRICAL)	5
B. IMPLEMENTATION OF CORPORATION ARRANGEMENTS	
1. NEGOTIATIONS AND TARIFFING	7
2. JURISDICTIONAL ISSUES	8
III. INTERCONNECTION FOR THE ORGANIZATION AND TERMINATION OF INTERSTATE INTERCHANGE TARIFF	9
IV. APPLICATION OF THESE PROPOSALS	10
V. CONCLUSION	11

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

**RECEIVED**

**MAR - 4 1996**

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY**

In the Matter of:

Interconnection Between Local Exchange Carriers  
and Commercial Mobile Radio Service Providers

CC Docket No. 95-185

**COMMENTS OF 360° COMMUNICATIONS COMPANY**

360° Communications Company (360), formerly known as Sprint Cellular Company, hereby respectfully submits its comments on the necessary changes in the regulatory treatment of interconnection compensation arrangements between Local Exchange Carriers (LECs) and Commercial Mobile Radio Service (CMRS) providers pursuant to the Notice of Proposed Rulemaking (NPRM) released January 11, 1996 (CC Docket Nos. 95-185, 94-54).<sup>1</sup>

In the NPRM, the Commission tentatively concludes that LEC-CMRS provider interconnection rates for local switching facilities and connections to end users should be priced on a "bill and keep" basis and that such arrangements should be made public. The Commission seeks comment on these tentative conclusions and also seeks comment on how to implement these interconnection policies and to whom they should apply.

---

<sup>1</sup> Notice of Proposed Rulemaking (NPRM) in the matter of Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, CC Docket No. 95-185, Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Service Providers, CC Docket No. 94-54, Released January 11, 1996, FCC 95-505.

360° Communications Company  
Initial Comments  
CC Docket No. 95-185  
March 4, 1996

I. GENERAL COMMENTS

360 applauds the Commission for its attention to the issues being addressed in this NPRM. Although it has already provided guidance in this area on two separate occasions, it is crucial that the Commission mandate specific requirements regarding LEC-CMRS interconnection in order to ensure that all parties are honoring such policies and competing on an equal playing field. In addition, it is imperative that these rules are implemented immediately so that CMRS providers can move closer towards the goal of a seamless, worldwide network and foster competition within the industry.

360 supports the Commission's bill and keep proposal and the public filing of interconnection contracts for purposes of notice. With regard to jurisdictional issues, 360 supports the third option of mandatory federal requirements to govern all LEC-CMRS interconnection arrangements. We concur that CMRS providers should recover access charges comparable to those currently being recovered between LECs, CAPs and IXC's, and support the position that these interconnection principles should apply to all CMRS providers.

360° Communications Company  
Initial Comments  
CC Docket No. 95-185  
March 4 1996

II. COMPENSATION FOR INTERCONNECTED TRAFFIC BETWEEN LECs AND CMRS PROVIDERS' NETWORKS  
A. COMPENSATION ARRANGEMENTS  
1. EXISTING COMPENSATION ARRANGEMENTS

Beginning in 1987, and as reaffirmed in 1989, the Commission has promoted the idea of mutual compensation with regard to interconnection arrangements between LECs and CMRS providers.<sup>2</sup> However, even though the Commission issued this policy almost 9 years ago, CMRS carriers have generally been unable to obtain the benefit of the order through private negotiations with the LECs. With the exception of one carrier, 360 does not receive any compensation from any LEC with which it has interconnection arrangements. 360 has tried on numerous occasions to negotiate mutual compensation but has been unsuccessful because of the unwillingness of the LECs to allow it.

As a result, 360 commends the Commission for re-addressing this issue. LECs "... unquestionably still possess substantial market power in the provision of local telecommunications services..." and if CMRS providers "...are to begin to compete directly against LEC wireline services, it is important that the prices, terms, and conditions of interconnection arrangements not serve to buttress LEC market power against erosion by competition."<sup>3</sup> Therefore, it is crucial that the Commission mandate its conclusions, as opposed to issuing guidelines, in order to ensure that such conclusions are honored. History has shown that without a mandate by the Commission with regard to interconnection, the unequal bargaining power of the parties can lead to discrimination and can impede

---

<sup>2</sup> (Decl. Ruling, 2 FCC Rcd 2910 (1987), aff'd on recon., 4 FCC Rcd 2369 (1989)

<sup>3</sup> NPRM at ¶2.

competition. In order to promote competition, CMRS providers must be able to connect their facilities to those of other networks, such as the local LEC networks, at competitive, reasonable rates and CMRS providers must be mutually compensated for the services that they provide to the LECs.

## 2. GENERAL PRICING PRINCIPLES

Although it is clear from the Commission's numerous orders that mutual compensation must be honored, the next question is how the parties should be compensated. 360 strongly concurs with the Commission's conclusion that interconnection between LECs and CMRS providers should be billed on a bill and keep basis. Bill and keep is the best method because 1) it is the simplest method to administer 2) it is the most widely used method for interconnection between the LECs, and 3) it eliminates the unequal bargaining power between LECs and CMRS providers that render private negotiations inequitable.

First of all, bill and keep is by far the simplest of pricing methods, both administratively and conceptually. 360 concurs with the Commission that the bill and keep method would require no new billing or accounting systems nor would it require additional calculations, tracking, etc., that other methods would require.<sup>4</sup> Each party would terminate the other's calls without charging for usage, subject to reasonable charges associated with tandem switching services and shared costs of dedicated facilities.

Second, bill and keep is fair. The best illustration for why it is the most fair method for CMRS providers is the fact that it is currently the most widely used method of compensation for interconnection between the LECs themselves. In general, the LECs do not pay each other for usage and thus, CMRS providers should be treated on no less favorable terms than the LECs are treated--- each party should terminate the others' traffic with no charge for usage.

---

<sup>4</sup> Id. at ¶¶61.

Finally, using the bill and keep method will help prevent the inequities that result from unequal bargaining power of the parties. When the Commission mandated almost 9 years ago that LECs were to "...offer interconnection to CMRS providers on reasonable terms and conditions, and to do so under the principle of mutual compensation,"<sup>5</sup> it gave LECs the opportunity to demonstrate their understanding of "reasonable" terms and conditions and mutual compensation. However, by their unwillingness to compensate CMRS providers for terminating calls from landline phones to mobile phones, the LECs demonstrated that very few, if any LECs were prepared to honor the FCC's mutual compensation requirement. Instead, the LECs have used their market power to impose unreasonably high interconnection rates to terminate CMRS traffic, while at the same time refusing to compensate CMRS providers for the service they provide in terminating LEC to mobile traffic. With the exception of one carrier, 360 does not receive any compensation from the LECs for terminating LEC traffic. The Commission's mutual compensation requirement is not being observed in the marketplace. Therefore, mandatory bill and keep is the best method to eliminate this inequitable result of private negotiations between LECs and CMRS providers.

### 3. PRICING PROPOSALS (INTERIM, LONG TERM, SYMMETRICAL)

360 whole-heartedly agrees with the Commission's position that "[A]ny significant delays in the resolution of issues related to LEC-CMRS interconnection compensation arrangements, combined with the possibility that LECs could use their market power to stymie the ability of CMRS providers to interconnect (and may have incentives to do so), could adversely affect the public interest."<sup>6</sup> 360 applauds the Commission's commitment to move forward expeditiously so as to have a mandate in place in the very near future, and 360 supports the Commission's tentative conclusion to establish bill and keep as the interim

---

<sup>5</sup> Id. at ¶1.

<sup>6</sup> Id. at ¶58.

method "... with respect to terminating access from LEC end offices to LEC end-user subscribers, and with respect to terminating access from equivalent CMRS facilities to CMRS subscribers."<sup>7</sup>

With regard to long-term approaches, 360 believes that bill and keep is the best long term method as well, and should become the permanent methodology. Bill and keep is pro-competitive, simple, fair, prevents inequities inherent when parties possess unequal market power and can be used by all LEC-CMRS providers. 360 concurs with the Commission's view that "...functionally equivalent forms of network interconnection arguably should be available to all types of networks at the same prices, unless there are cost differences or other policy considerations that justify different rates."<sup>8</sup> 360 strongly supports the position that all carriers should be treated equally and that the same rules should apply equally to all parties. 360 further believes that bill and keep is the best method for advancing the public interest objectives of fostering competition in the marketplace because it places all players, LECs, CMRS providers and IXCs on a level playing field by treating them equally with regard to interconnection, which leads to competitive rates for the public.

Finally, we concur with the Commission's call for symmetrical compensation arrangements. 360 agrees that LEC-CMRS interconnection rates should be symmetrical -- "...that is, LECs should pay CMRS providers the same rates as CMRS providers pay LECs."<sup>9</sup> Although we acknowledge that if interconnection rates were truly cost-based, it may have resulted in different rates because LEC networks and CMRS networks use different technologies and thus, may have different costs. However, we concur with the Commission that symmetrical rates would be administratively easier to derive and manage and that "...symmetrical rates could reduce the LECs' ability to use their bargaining strength to negotiate

---

<sup>7</sup> Id. at ¶¶60.

<sup>8</sup> Id. at ¶¶77.

<sup>9</sup> Id. at ¶¶78.



an excessively high termination charge that CMRS providers would pay LECs and an excessively low termination rate that LECs pay CMRS providers.”<sup>10</sup>

B. IMPLEMENTATION OF COMPENSATION ARRANGEMENTS  
1. NEGOTIATIONS AND TARIFFING

360 concurs with the Commission’s view that “...some involvement in the formation and administration of interconnection arrangements between LECs and CMRS providers would help counter possible abuses of market power and would help ensure that these arrangements are efficient and advance the public interest.”<sup>11</sup> A requirement of public filing will enable carriers and the Commission to verify that the basic interconnection framework mandated by the Commission is being followed and that all carriers have access to the information necessary to ensure that they are being treated equally and will not suffer from discrimination. 360 supports the mandate that all LECs must file interconnection arrangements/contracts for purposes of notice. Public disclosure of these arrangements will help ensure that the LECs are negotiating in good faith and providing comparable rates for similar arrangements/services.

360 does not support a tariffing requirement because such tariffing may result in unnecessary administrative and regulatory burdens. Instead, the Commission’s objectives of promoting economic efficiency through competition and flexible negotiation are both attained through mandatory public disclosure requirements.

Moreover, it is crucial that information relating to CMRS providers remain confidential and thus, 360, while supporting public disclosure of interconnection arrangements, requests that certain no competitively-sensitive information regarding CMRS providers be disclosed publicly.

---

<sup>10</sup> Id. at ¶¶80.

<sup>11</sup> Id. at ¶¶88.

## 2. JURISDICTIONAL ISSUES

In order to ensure the development of a worldwide seamless network where carriers of different networks can interconnect with each other, a single set of rules for such interconnection is imperative. The Commission has required that LECs provide interconnection on reasonable terms and conditions and under the policy of mutual compensation. 360 does not believe that either reasonable terms and conditions nor mutual compensation methodologies can be separated between interstate and intrastate and thus, we believe that Section 332 gives the Commission exclusive jurisdiction in the area of interconnection. 360 supports the third option considered by the Commission which would allow interconnection issues to be specifically promulgated by the Commission.

360 further emphasizes the importance of the Commission issuing a mandate for compliance with its bill and keep policy, in order to prevent history from repeating itself and allowing the LECs to disregard such rules. As evidenced by the past, mere guidelines in this area of LEC-CMRS interconnection are not enough. The market power of the LECs requires that such policies be mandated at the federal level.

Furthermore, the Commission has always supported the establishment of a nationwide wireless network; by applying uniform requirements, the Commission furthers this goal. Uniformity in terms of regulation is crucial to the rapid buildout of a nationwide wireless network. In addition, one set of rules, as opposed to trying to interpret 51 potentially different rules, greatly reduces the administrative burden of having to comply with different jurisdictional requirements.

360° Communications Company  
Initial Comments  
CC Docket No. 95-185  
March 4, 1996

III. INTERCONNECTION FOR THE ORIGINATION AND TERMINATION OF INTERSTATE  
INTEREXCHANGE TRAFFIC

360 concurs with the Commission's tentative conclusion that CMRS providers should be entitled to recover access charges from IXC's. Currently, CMRS providers do not receive any compensation for the services that they provide to IXC's by terminating their calls.

However, because CMRS providers are unable to track such data, in order to begin charging for such services it will be necessary for the IXC's and LEC's to provide data to the CMRS providers. 360 feels strongly that in order to ensure that all parties are honoring such a mandate, IXC's and/or LEC's should be required to provide adequate usage records to allow accurate billing for call termination.

In order to ensure that the market power possessed by these incumbents is not used to the detriment of CMRS providers and new entrants to the market, the Commission must mandate a framework by which all parties must abide. 360 strongly urges the Commission to require LEC's, IXC's, etc., to pay CMRS providers on no less favorable terms than those negotiated and established by the LEC's, CAP's and IXC's, including with regard to access charges.

360° Communications Company  
Initial Comments  
CC Docket No. 95-185  
March 4, 1996

#### IV. APPLICATION OF THESE PROPOSALS

360 believes that the Commission's mandates in this area of interconnection should apply to all CMRS providers on an equal basis. The Omnibus Budget Reconciliation Act of 1993 established that all CMRS providers should be treated the same in order to ensure vigorous competition in the marketplace. The Commission has frequently honored this principle by ensuring that CMRS providers are treated similarly and thus, to deviate from this policy with regard to interconnection rates would seem inconsistent and inappropriate.

360° Communications Company  
Initial Comments  
CC Docket No. 95-185  
March 4, 1996

V. CONCLUSION

By mandating bill and keep as the interim and long-term solution for interconnection arrangements between LECs and all CMRS providers, and requiring that the contracts reflecting those arrangements be filed publicly for purposes of notice, the Commission will be taking the necessary and appropriate steps towards reducing the inequity that has existed because of the market power advantage possessed by the LECs. In addition, by further mandating that CMRS providers should recover access charges comparable to those currently being recovered by LECs, CAPs and IXCs, the Commission will be fostering competition and equity among telecommunications providers. Finally, these principles should apply to all CMRS providers in order to maintain the Commission's current policies of regulatory parity. 360 respectfully requests that the Commission implement policies, as expeditiously as possible.

Respectfully submitted,

360° COMMUNICATIONS COMPANY

By



Kevin C. Gallagher  
Senior Vice President-General Counsel and Secretary  
360° Communications Company  
8725 Higgins Road  
Chicago, IL 60631  
(312) 399-2348

March 4, 1996